

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	CONSENT PRELIMINARY ORDER
- v. -	:	OF FORFEITURE AS TO
	:	<u>SPECIFIC PROPERTY</u>
FRED MASTROIANNI,	:	
	:	S1 20 Cr. 575 (PMH)
Defendant.	:	
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WHEREAS, on or about March 23, 2023, FRED MASTROIANNI (the “Defendant”), was charged in a two-count Superseding Information, S1 20 Cr. 575 (PMH) (the “Information”), with receipt and distribution of child pornography, in violation of Title 18, United States Code, Sections 2252A(a)(2)(B) and (b)(1) (Count One) and sexual exploitation of a child, in violation of Title 18, United States Code, Section 2251(a) & (e) (Count Two);

WHEREAS, the Information included a forfeiture allegation as to Counts One and Two of the Information, seeking forfeiture to the United States, of any and all property, real and personal, that was used and intended to be used to commit and to facilitate the commission of such offenses, in addition to any and all property, real and personal, constituting and derived from any proceeds that such person obtained, directly and indirectly, as a result of the offenses charged in Counts One and Two of the Information;

WHEREAS, on or about August 20, 2020, and October 16, 2020, the Government seized from the Defendant from an address in White Plains, New York, the following specific property:

1. Three (3) USB Thumb drives: ADATA 8GB, red and black; Lexar 16GB, black; and Sandisk Cruzer 16GB, black;
2. WD hard drive, silver;
3. HP laptop, black and silver, s/n: 2CE835TCKY;

4. Apple Macbook, model: 2141, s/n: C02CW4B9MD6T;
5. Apple (Mac) computer, model: 1312, s/n: W800849DSRU;
6. WD Easy Store hard drive, s/n: 1EGG74K2;
7. Toshiba hard drive, s/n: 84JBTM2DT18B;
8. Micro Center Custom Build computer server, s/n: MC51008197; and
9. Apple MacBook, model: 2141, s/n: C02CW4B9MD6T;

(1 through 9, collectively, the “Specific Property”);

WHEREAS, on or about May 23, 2023, the Defendant pled guilty to Counts One and Two of the Information, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Counts One and Two of the Information and agreed to forfeit to the United States, all of his right, title and interest in the Specific Property;

WHEREAS, the Defendant further consents to the forfeiture of all his right, title and interest in the Specific Property, which constitute property used, or intended to be used to commit, or promote the commission of the offenses charged in Counts One and Two of the Information; and

WHEREAS, pursuant to Title 21, United States Code, Section 853(g), and Rules 32.2(b)(3), and 32.2(b)(6) of the Federal Rules of Criminal Procedure, the Government is now entitled, pending any assertion of third-party claims, to reduce the Specific Property to its possession and to notify any and all persons who reasonably appear to be a potential claimant of their interest herein;

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States

Attorneys Courtney L. Heavy and Ryan W. Allison, of counsel, and the Defendant and his counsel, Stephen Lewis, Esq., that:

1. As a result of the offenses charged in Counts One and Two of the Information, to which the Defendant pled guilty, all of the Defendant's right, title and interest in the Specific Property is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture as to Specific Property is final as to the Defendant FRED MASTROIANNI, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. Upon entry of this Consent Preliminary Order of Forfeiture as to Specific Property, the United States Marshals Service (or its designee) is hereby authorized to take possession of the Specific Property and to hold such property in its secure custody and control.

4. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States is permitted to publish forfeiture notices on the government internet site, www.forfeiture.gov. This site incorporates the forfeiture notices that have been traditionally published in newspapers. The United States forthwith shall publish the internet ad for at least thirty (30) consecutive days. Any person, other than the Defendant, claiming interest in the Specific Property must file a Petition within sixty (60) days from the first day of publication of the Notice on this official government internet web site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

5. The published notice of forfeiture shall state that the petition (i) shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Specific Property, (ii) shall be signed by the petitioner under penalty of perjury, and (iii) shall set forth the nature and extent of the petitioner's right, title or interest in the Specific Property, the time and circumstances of the petitioner's acquisition of the right, title and interest in the Specific Property, any additional facts supporting the petitioner's claim, and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

6. Pursuant to 32.2 (b)(6)(A) of the Federal Rules of Criminal Procedure, the Government shall send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Specific Property pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed.

8. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the Defendant up to the uncollected amount of the Money Judgment.

9. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.


10. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture as to Specific Property, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

11. The signature page of this Consent Preliminary Order of Forfeiture as to Specific Property may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By:


COURTNEY L. HEAVY
RYAN W. ALLISON
Assistant United States Attorneys
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2413/(914) 993-1953

February 9, 2023
DATE


FRED MASTROIANNI

By:


FRED MASTROIANNI


3/23/23
DATE

By:


STEPHEN LEWIS, ESQ.
Attorney for Defendant
Stephens, Baroni, Reilly & Lewis, LLP
175 Main Street, Suite 800
White Plains, NY 10601

3/23/23
DATE

SO ORDERED:


HONORABLE PHILIP M. HALPERN
UNITED STATES DISTRICT JUDGE

3/23/23
DATE